

**REMARKS**

Reconsideration and reexamination of the application are requested in view of the above amendments and the following remarks. Claims 1, 3 and 4 have been amended. Claim 2 is canceled without prejudice or disclaimer. Claims 9-19 have been added. Claims 1 and 3-19 are pending.

Applicant would like to thank the Examiner for the telephone interview conducted on March 6, 2006 with Applicant's representative, James Larson. During the interview, Applicant and the Examiner discussed claims reflected in newly added claims 10 and 19. The Examiner indicated that the claims appeared to overcome the current rejections. No agreement was reached concerning allowable subject matter.

**I. Amendments**

Claim 1 has been amended to include the language from claim 2 which has been canceled.

Claims 3 and 4 are amended to depend from claim 1.

New claims 9 and 18 are supported by the original disclosure, for example page 10, lines 4-6.

New claims 10-17 are supported by the original disclosure, for example page 6, lines 5-8 and page 7, lines 5-11.

New claim 19 is supported by the original disclosure, for example page 9, line 16 to page 10, line 8 and Figure 2.

No new matter has been added by these amendments.

**II. Prior art rejections**

Claims 1 and 7-8 are rejected under 35 USC 102(b) as being anticipated DE 100 14 367 (DE '367).

In addition, claims 1 and 7-8 are rejected under 35 USC 102(e) as being anticipated by US 6,595,580 to Eberle et al.

In addition, claims 1 and 7-8 are rejected under 35 USC 102(e) as being anticipated by WO 02/070326 (WO '326).

The language from claim 2, which was indicated by the Examiner to recite allowable subject matter, has been added into claim 1.

Therefore, claim 1, along with claims 3-8 depending thereon, should be in immediate condition for allowance.

### III. New claims 9-19

New claim 9 depends on claim 1 and is allowable along with claim 1.

New claims 10-18 are patentable over DE '367, Eberle and WO '326. These references do not disclose an open-close device, including the driving source and the power transmitter of the driving mechanism, arranged in a space surrounded by the roof member, the side member, and the strengthening member.

DE '367 discloses what appear to be hydraulic or pneumatic cylinders which assist in providing controlled opening and closing movements of a vehicle door upon opening and closing the door (Figures 2, 3 and 8). DE '367 does not appear to disclose an open-close device with a driving mechanism that includes a driving source and a power transmitter linked to the vehicle door, where the open-close device, including the driving source and the power transmitter of the driving mechanism, is arranged in a space surrounded by the roof member, the side member, and the strengthening member. Even if the cylinders in DE '367 are considered to be a driving mechanism that includes a driving source and a power transmitter linked to the vehicle door, which Applicant does not concede, the cylinders in DE '367 are not actually arranged in the space identified in the rejection as is evident from Figure 8, which shows the cylinder to be arranged outside of the space identified in the rejection.

Eberle discloses pneumatic springs 3, 4 which assist in providing controlled opening and closing movements of a vehicle door upon opening and closing the door. However, Eberle does not disclose an open-close device with a driving mechanism that includes a driving source and a power transmitter linked to the vehicle door, where the open-close device, including the driving source and the power transmitter of the driving mechanism, is arranged in a space surrounded by the roof member, the side member, and the strengthening member. The springs in Eberle are not a driving mechanism with a driving source and a power transmitter. In Eberle, the door is manually opened and

manually closed; the springs 3, 4 are passive and damp the door movements. The springs 3, 4 do not apply a driving force, so they are not a driving source.

WO '326 discloses what appear to be hydraulic or pneumatic cylinders 28, 29 which assist in providing controlled opening and closing movements of a vehicle door upon opening and closing the door (Figure 3; page 5, lines 17-19). WO '326 does not appear to disclose an open-close device with a driving mechanism that includes a driving source and a power transmitter linked to the vehicle door, where the open-close device, including the driving source and the power transmitter of the driving mechanism, is arranged in a space surrounded by the roof member, the side member, and the strengthening member.

Nor do DE '367, Eberle and WO '326 teach or suggest the arrangement recited in claim 10. Neither reference is directed to an open-close device to automatically open and close a vehicle door. A driving mechanism to apply a driving force to the door in such an open-close device is larger in size than the passive damping systems disclosed in DE '367, Eberle and WO '326. Therefore, neither reference teaches or suggests how to incorporate a larger driving mechanism into a space as claimed.

In addition, new claim 19 is patentable over DE '367, Eberle and WO '326. These references do not disclose an open-close device, including a strengthening member that is separate from the roof member and the side member, and connects to the roof member and the side member so as to extend across the connecting part.

In DE '367, the portion characterized in the rejection as the strengthening member is integral with the roof member 2a, so it is not separate from the roof member and connected to the roof member.

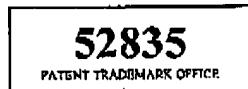
In Eberle, the portion characterized in the rejection as the strengthening member is integral with the side member 10, so it is not separate from the side member and connected to the side member. Further, the strengthening member does not extend across a connecting part between the roof member and the side member.

In WO '326, the portion characterized in the rejection as the strengthening member is integral with the side member, so it is not separate from the side member and connected to the side member. Further, the strengthening member does not extend across a connecting part between the roof member and the side member.

IV. Conclusion

In view of the above, early issuance of a notice of allowance is solicited. Any questions regarding this communication can be directed to the undersigned attorney, Curtis B. Hamre, Reg. No. 29,165 at (612) 455-3802.

Respectfully submitted,



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